

# HUMAN SERVICES DEPARTMENT[441]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 232.142(4), the Department of Human Services proposes to amend Chapter 105, “County and Multicounty Juvenile Detention Homes and County and Multicounty Juvenile Shelter Care Homes,” Iowa Administrative Code.

The proposed amendments add to existing standards for approval of juvenile shelter care and detention facilities the requirement to conduct record checks on volunteers. Child abuse and criminal record checks are already required for persons employed by or residing in these facilities. Legislation in 2011 Iowa Acts, Senate File 482, division VI, authorizes the release of child abuse and dependent adult abuse records to these facilities for volunteers.

The amendments also shorten the chapter title for convenience and remove a prohibition on sharing record check information with applicants or employees. To give the applicant or employee the opportunity to request an evaluation of a criminal or child abuse record, the nature of the record must be revealed.

Any interested person may make written comments on the proposed amendments on or before September 13, 2011. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 232.142 as amended by 2011 Iowa Acts, Senate File 482, section 7.

The following amendments are proposed.

ITEM 1. Amend **441—Chapter 105**, title, as follows:

~~COUNTY AND MULTICOUNTY JUVENILE DETENTION HOMES AND COUNTY  
AND MULTICOUNTY JUVENILE SHELTER CARE HOMES~~

ITEM 2. Amend subrule 105.3(3) as follows:

**105.3(3) Personnel records.** A record shall be maintained by the facility ~~which contains at least the following~~ as applicable for each volunteer who has direct responsibility for a child or access to a child when the child is alone and for each employee. The record shall include at least the following:

- a. Name, address, and social security number of the volunteer or employee.
- b. A job application containing sufficient information to justify the initial and current employment.
- c. ~~Education~~ Verification of education and experience ~~requirements~~. Applicants for positions having educational requirements shall be permanently employed only after the facility has obtained a certified copy of the transcript, diploma, or verification from the school or supervising agency. Applicants for positions having experience requirements shall be permanently employed only after the facility has obtained verification from the agency supervising the experience.
- d. ~~License requirements~~ Verification of license. Applicants for positions requiring licenses shall be permanently employed only after the facility has obtained written verification of their licenses. Evidence of renewal of licenses as required by the licensing agency shall be maintained in the personnel record.

e. References. At least two written references or documentation of oral references shall be contained in the volunteer's or employee's personnel record. In case of unfavorable references, there shall be documentation of further checking to ensure that the person will be a reliable volunteer or employee.

f. ~~After July 1, 1983, a~~ A written, signed and dated statement which discloses any substantiated instances of child abuse, neglect or sexual abuse committed by the volunteer or job applicant ~~is required~~.

g. Documentation of the submission of Form 470-0643, Request for Child Abuse Information, to the central abuse registry, the registry response, the department's evaluation of any abuse record discovered, and a copy of Form 470-2310, Record Check Evaluation, if the volunteer or staff person has completed and submitted it.

h. A written, signed and dated statement furnished by the new volunteer or applicant for employment which discloses any convictions of crimes involving the mistreatment or exploitation of a child.

i. Documentation of a check with the Iowa department of public safety on all new volunteers and applicants for employment using Form 595-1396, DHS Criminal History Record Check, Form B; a copy of the department's evaluation of any criminal record discovered; and a copy of Form 470-2310, Record Check Evaluation, if the volunteer or applicant has completed and submitted it.

j. to n. No change.

~~o. Information covered in paragraphs "g," "i," "j," is confidential and may not be redisseminated to that particular applicant or employee.~~

ITEM 3. Amend subrule 105.5(5) as follows:

**105.5(5) Record checks.** The facility shall not employ any person ~~who~~ or give any person direct volunteer responsibility for a child or access to a child when the child is alone if that person has been convicted of a crime involving the mistreatment or exploitation of a child. The facility shall not employ a any person who or give any person direct volunteer responsibility for a child or access to a child when the child is alone if that person has a record of a criminal conviction or founded child abuse report unless the department has ~~made an evaluation of~~ evaluated the crime or ~~founded child abuse which concludes and determined~~ that the crime or ~~founded child abuse~~ does not merit prohibition of volunteering or employment.

a. If a record of criminal conviction or founded child abuse exists, the person shall be offered the opportunity to complete and submit Form 470-2310, Record Check Evaluation.

b. In its evaluation, the department shall consider:

(1) The nature and seriousness of the crime or founded abuse in relation to the employment or volunteer position sought;

(2) to (5) No change.

ITEM 4. Amend ~~441~~—**Chapter 105**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 232.142 as amended by 2011 Iowa Acts, Senate File 482, section 7.